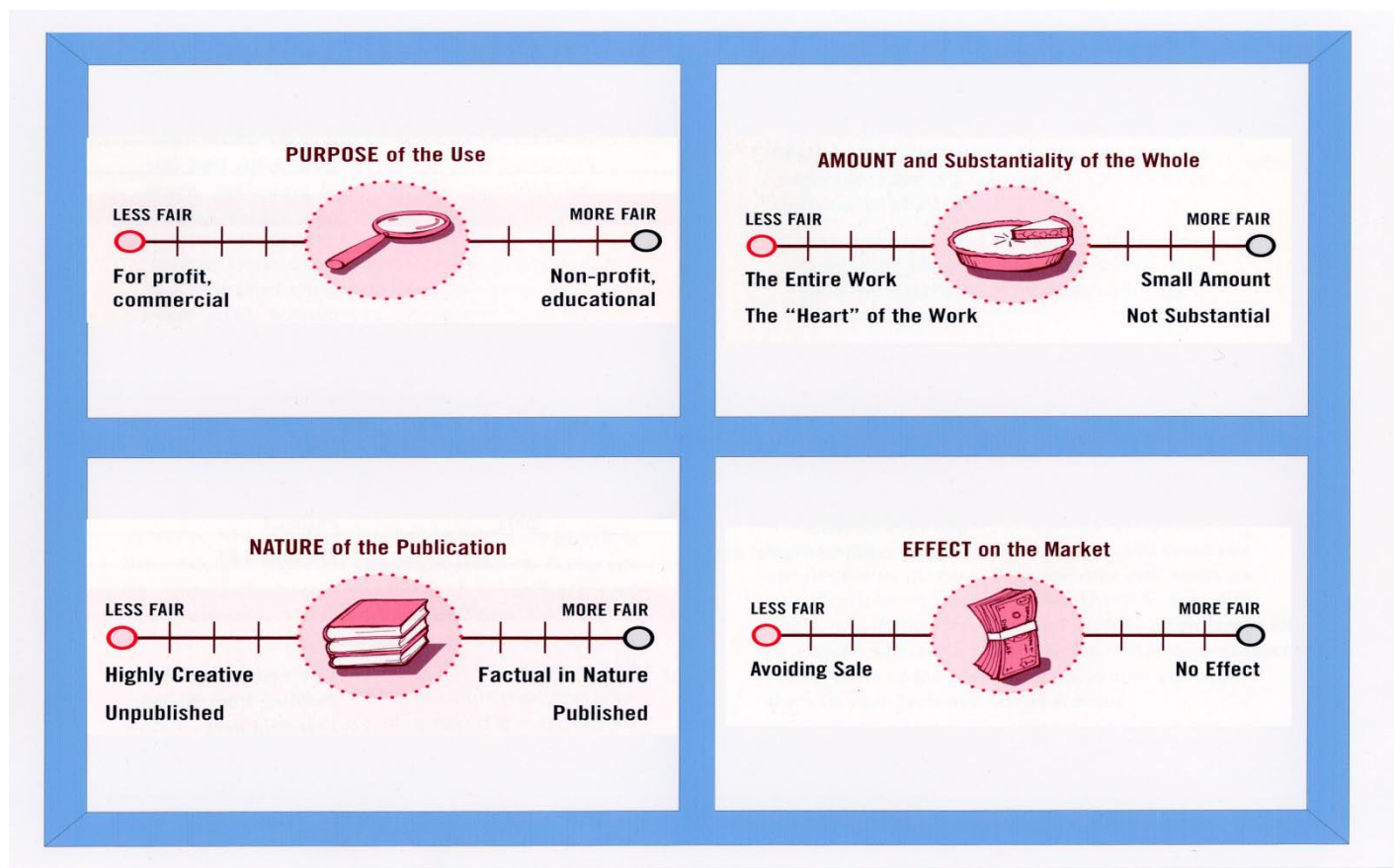


Window PANE gauge for a Fair Use analysis



Utilizing the window P-A-N-E mnemonic makes it easy to remember the four parts of a Fair Use analysis.

P) What is your **PURPOSE** of the use of the work? Is it educational or personal? Or is it commercial and for-profit? If it is educational or personal, more than likely it is a Fair Use. This is especially true for educational or personal mash-ups where the user of a copyrighted work adds value to the use of a work for a purpose different from what the work was originally intended. The courts call this transformative use and it often favors Fair Use.

A) What **AMOUNT** of the work is used? The more you copy, the less likely it is permitted as Fair Use. For example, if you copy five pages directly from a ten page story and redistribute it to others on the web, it may not qualify as Fair Use. The same applies to copying music or films; the less of it you copy (for either school or personal use), the better.

N) What is the **NATURE** of the work used? Is it a factual book or is it a creative film or music? The more factual the material, the more likely your use is Fair Use. However, the more creative the material is, you may need to use as little as possible to qualify as Fair Use. NOTE: When copying and pasting factual text from the web, remember to follow the rules to avoid plagiarism: summarize larger portions in your own words and use quotation marks for smaller portions.

E) What is the **EFFECT** on the market for this use? Does your use substitute for what could have been purchased? In other words, does your use discourage others from purchasing an original copy? If you would copy part of someone else's song and then try to make money from your new mash-up, this may not be Fair Use. Unauthorized, commercial use may harm the original musician from getting paid for their hard work. There is a difference between school/personal use versus commercial/for-profit use of copyrighted works.

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